

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

STEPHANIE BRITT,

PLAINTIFF,

VS.

WALGREEN CO.,

DEFENDANT.

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CIVIL ACTION NO. 1:19-CV-00781-RP

**WALGREEN CO.'S UNOPPOSED MOTION FOR
LEAVE TO FILE A SURRESPONSE AND OPPOSED MOTION TO STRIKE**

Defendant Walgreen Co. (“Defendant” or “Walgreens”) files this Unopposed Motion for Leave seeking permission to file a Surreponse to Plaintiff’s Motion to Amend Findings of Fact and Conclusions of Law and Opposed Motion to Strike Plaintiff’s Untimely Reply, and respectfully shows the Court as follows:

This case was tried to the Court on January 17, 2022, and the Court issued its findings of fact and conclusions of law on August 5, 2022. Plaintiff filed a motion to amend or correct the same on August 26, 2022, to which Defendant timely filed a response on September 8, 2022. Dkt. 124 & 126. Plaintiff then waited an entire month to file an untimely reply on October 14, 2022, in violation of Local Rule CV-7(E)(2). Dkt. 129. According to Local Rule CV-7(E)(1) no further submissions on Plaintiff’s motion are allowed without leave of the Court.

As a result, Defendant files this Motion for Leave requesting that it be permitted to file a surresponse and motion to strike Plaintiff’s reply. Specifically, as noted above, Plaintiff’s reply is untimely, and, therefore, should be stricken. Should the motion to strike be granted Defendant’s surresponse would be unnecessary. However, should the motion to strike be denied, Defendant

requests leave to file a surresponse to address arguments asserted in Plaintiff's reply that Defendant believes misstate the facts and the law. Defendant's counsel has conferred with Plaintiff's counsel and Plaintiff's counsel is opposed to the motion to strike but is unopposed to Defendant's motion for leave to file a surresponse.

Thus, Defendant respectfully requests that the Court grant this motion for leave, allow Defendant to file the motion to strike attached hereto as Exhibit A, and strike Plaintiff's untimely reply. However, should the motion to strike be denied Defendant requests its motion for leave to file a surresponse be granted and that the Court find that that Exhibit A is timely filed on the date the Court grants this motion.

Respectfully submitted,

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/s/ Stephen T. Dennis

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**ATTORNEYS FOR DEFENDANT
WALGREEN CO.**

CERTIFICATE OF CONFERENCE

I hereby certify that on the 24th day of October, 2022, I conferred with Plaintiff's counsel regarding the contents of this Motion via email and he stated that he was opposed to Defendant's request to file a motion to strike but was unopposed to Defendant's motion for leave to file a surrejoinder.

/s/ Stephen T. Dennis

Stephen T. Dennis

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by electronic service to the parties listed below on this 25th day of October, 2022.

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/s/ Stephen T. Dennis

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